



INSIGHTS

108th Congress

September 20, 2004

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Weekly Summary

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INSIGHTS is prepared expressly for the Department of Energy's Office of Federal Energy Management Programs (FEMP). The purpose of **INSIGHTS** is to provide FEMP management staff with timely information on legislative activities relevant to the program. **INSIGHTS** is prepared for FEMP by Energetics, Incorporated, (202) 479-2748.

WEEKLY SUMMARY

CONGRESSIONAL SCHEDULE

House

This week, the House plans the following activities of interest:

- Resume debate on *H.R. 5025 – FY 2005 Appropriations for Transportation and Treasury*
- Subcommittee on Small Business on Rural Enterprises, Agriculture, and Technology hearing to discuss the impact of high natural gas prices.

Senate

This week, the Senate plans the following activities of interest:

- Senate to begin consideration of *S. 2674 – FY 2005 Appropriations for Military Construction*
- Committee on Appropriations mark up of *S. (Unnumbered) – Veterans' Administration, Housing and Urban Development, and Independent Agencies*
- Resume consideration of *S. 2804 – FY 2005 Appropriations for Interior and Related Agencies*

FY 2005 BUDGET RESOLUTION AND FY 2005 APPROPRIATIONS

With two weeks remaining in the current fiscal year, House and Senate Republican leaders reportedly expect to pass one or more Omnibus bills for FY 2005 appropriations. Ted Stevens (R/AK) Chair of the Senate Committee on Appropriations said last week that he hopes to finish the spending bills by October 8; others predict an October 15 target for completion of the annual appropriations process.

House

H.R. 5025 – FY 2005 Appropriations for Transportation and Treasury This bill, which includes building and facility funding for the Department of Transportation and the Treasury and White House Restoration projects. The House is scheduled to resume work on the bill on September 21 with the intent to bring the bill to a floor vote. Last week, a contentious debate over the bill's provisions and funding level prevented House approval.

Senate

FY 2005 Budget Resolution The Senate has yet to approve the non-binding 302(b) funding levels for the FY 2005 appropriations process. However, the Senate is moving forward on marking up and passing individual bills.

FY 2005 Appropriations Update The Senate continues to move the appropriations process forward having marked up at the committee level 10 of the 13 annual appropriations bills. Of the 10 bills, one has become public law (Defense Appropriations) and two have been approved

by the Senate (Homeland Security and Military Construction). This week, the Senate is expected to move forward with two to three bills; a full committee mark up of the Veterans' Administration (VA major and minor construction projects), Housing and Urban Development and Independent Agency bill (Environmental Protection Agency Building and Facilities account) is anticipated. The Senate approved the Military Construction bill on September 20. The Interior and Related Agencies bill (Department of Energy's energy efficiency program, including FEMP and the Department of Interior's National Park Service facility projects) may be considered on this Senate floor this week or next.

FY 2005 Appropriations for Military Construction (adopted H.R. 4837 – House bill)

Military Construction - \$5.3 Billion (to remain available until September 30, 2009)

- Army - \$1,977,166,000
- Navy - \$1,016,315,000
- Air Force - \$841,131,000
- Defense-Wide - \$696,491,000
- Army National Guard - \$381,765,000
- Air National Guard - \$231,083,000
- Army Reserve - \$66,325,000
- Naval Reserve - \$33,735,000
- Air Force Reserve - \$101,373,000

Family Housing - \$ 4.2 Billion (construction funding only, to remain available until September 30, 2009)

- Army Construction - \$636,099,00
- Army Operations and Maintenance - \$928,907,000
- Navy and Marine Corps Construction - \$139,107,000
- Navy and Marine Corps Operations and Maintenance - \$704,504,000
- Air Force Construction - \$846,959,000
- Air Force Operation and Maintenance - \$856,114,000
- Defense-Wide Construction - \$49,000
- Defense-Wide Operation and Maintenance - \$49,575,000

COMPREHENSIVE ENERGY LEGISLATION

The House and Senate Republican Leadership remains committed to passing comprehensive energy legislation this year. Reports indicate that the leadership is investigating new avenues for passing a bill before the end of this Congressional year. Options being examined reportedly include attaching energy legislation to a "must pass" bill, which could include a continuing resolution or an Omnibus bill for FY 2005 appropriations or pending authorization legislation.

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COMMITTEE ACTIVITY

HOUSE

Status of Energy Saving Performance Contracting (ESPC) Authorization Last week, 19 House members signed a “Dear Colleague” letter urging the House to adopt a provision in S. 2400 – *FY 2005 Defense Authorization* bill. The provision, which is not included in the House version of the bill, reauthorizes the use of ESPCs to finance Federal energy management projects in military and civilian government facilities. Representatives Ellen Tauscher (D/CA) and Joe Wilson (R/SC) led the effort and hope to obtain additional signatures to the letter, which states:

Dear Conferees:

We urge you to support the Senate-passed extension of the Energy Savings Performance Contract Program (ESPC) in the Department of Defense Authorization Act for Fiscal-Year 2005. There are numerous reasons to reauthorize this valuable program:

- Over \$300 million in energy efficiency projects and 4,000 associated jobs stalled when ESPC statutory authority expired October 2003;
- Military bases are the major users of ESPCs;
- According to DOD, 70 % of its energy infrastructure improvements were made through this program in 2003;
- ESPC saves the Federal Government money and energy and does not require additional appropriations;
- The Administration has called for the “immediate extension of current ESPC authority for all agencies” (Statement of Administration Policy for S. 2400, National Defense Authorization Act for Fiscal Year 2005); and
- DOE Secretary Abraham has urged Congress “to act quickly to extend authorization of this important program.”

Under ESPCs, contractors finance, install and maintain new energy efficient equipment in federal facilities at no up-front cost to the government. The energy savings are guaranteed and the agency pays back the contractor with the dollars saved on its energy and maintenance bills. ESPC has saved the government millions of dollars since its inception 10 years ago.

The provisions to reauthorize Energy Savings Performance Contracting were sponsored by Senators Inhofe and Bingaman with bi-partisan co-sponsorship of 18 additional members of the Senate. We respectfully request that you agree to include this provision to reauthorize ESPC in the final conference report.

The letter was addressed to Duncan Hunter (R/CA) and Ike Skelton (D/MO) the Chair and Ranking Minority Member of the House Committee on Armed Services and signed by Representatives

Federal use of ESPCs expired on October 1, 2003. The S 2400 provision is provided below.

SEC. 1091. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL- Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking '2003' and inserting '2005'.

(b) PAYMENT OF COSTS- Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting ', water, or wastewater treatment' after 'payment of energy'.

(c) ENERGY SAVINGS- Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

'(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of--

'(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

'(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

'(C) the increased efficient use of existing water sources in either interior or exterior applications.'

(d) ENERGY SAVINGS CONTRACT- Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

'(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.'

(e) ENERGY OR WATER CONSERVATION MEASURE- Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

'(4) The term 'energy or water conservation measure' means--

'(A) an energy conservation measure, as defined in section 551; or

'(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.'

(f) REVIEW- Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and

measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to Congress and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

(g) EXTENSION OF AUTHORITY- Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be deemed to have been entered into pursuant to such section 801 as amended by subsection (a) of this section.

SENATE

No activity of interest to report.

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STATUS OF FY 2005 APPROPRIATIONS BILLS

- Red text highlights developments since the last issue of *INSIGHTS*.

(In Billions)

HOUSE

SENATE

Jurisdiction/ FY 2004 Budget Request (In Billions)	302(b) Discretionary Allocations/ Approved Funding Level (In Billions)	Bill No.	Full Cmte. Mark Up	Floor Vote	Vote on Conf Rpt.	302(b) Discretionary Allocations/ Approved Funding Level (In Billions)	Bill No	Full Cmte. Mark Up	Floor Vote	Vote on Conf. Rpt.
Agriculture \$16.569	\$16.78 \$16.77	H.R. 4766	6/23	7/13		TBD \$16.77	S. 2803	9/14		
Commerce \$39.553	\$39.78 \$39.8	H.R. 4754	6/23	7/8		TBD \$39.8	S. 2809	9/15		
Defense \$392.585 P.L. 108-287 \$416.2	\$392.14 \$416.9	H.R. 4613	6/16	6/22	7/22	TBD \$416.2	S. 2559	6/22	6/24	7/22
Energy and Water Development \$27.938	\$27.99 \$28.0	H.R. 4614	6/16	6/25		TBD				
Homeland Security \$31.104	\$32 \$32	H.R. 4567	6/9	6/18		TBD \$32	S. 2537	6/17	9/14	
Interior \$19.982	\$19.73 \$19.5	H.R. 4568	6/9	6/17		TBD \$20.256	S. 2804	9/14	Week of 9/20	
Labor/HHS \$142.050	\$142.05 \$142.324	H.R. 5006	7/14	9/9		TBD \$142.317	S. 2810	9/15		
Military Construction \$9.553	\$9.553 \$10.003	H.R. 4837	7/9	7/22		TBD \$10.003	S. 2674	7/15	9/20	
Transportation and Treasury \$25.714	\$25.714	H.R. 5025	9/8			TBD	S. 2806	9/14	9/21	
VA/HUD \$92.129	\$92.129 \$92.9	H.R. 5041	7/22			TBD				

* Tentative Schedule

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ADMINISTRATION INITIATIVES

No new actions or announcements of interest to report.

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HEARINGS SCHEDULE

HOUSE – COMMITTEE ON APPROPRIATIONS

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
September 21 House (NEW)	N/A	Floor Consideration and Vote FH.R. 5025 – FY 2005 Appropriations for Transportation and Treasury	N/A	Time: TBA House Chamber U.S. Capitol

HOUSE – AUTHORIZATIONS/OVERSIGHT

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
September 22 Subcommittee on Rural Enterprises, Agriculture and Technology (Committee on Small Business) (NEW)	Sam Graves (R/MO)	Hearing Impact of rising natural gas prices	Representatives from the manufacturing industry, Representative Steve King (R/IA), the agriculture community	10:00 a.m. Room 311 Cannon Office Building

SENATE – COMMITTEE ON APPROPRIATIONS

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
September 20, 2004 Senate (New)	N/A	Floor Debate S. 2674 – FY 2005 Appropriations for Military Construction	N/A	Time: TBA Senate Chamber U.S. Capitol
September 21 Senate (New)	N/A	Floor Debate S. (Unnumbered) – FY 2005 Appropriations for	N/A	2:30 p.m. Room 216 Hart Office Building

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
		<i>Veterans' Affairs, Housing and Urban Development, and Independent Agencies</i>		
Week of September 20, 2004	Ted Stevens (R/AK)	Mark Up <i>S. 2804 – Interior and Related Agencies</i>	N/A	Time: TBA
Senate (Tentative)				

SENATE – AUTHORIZATIONS/OVERSIGHT

No activities of interest have been scheduled.

CONFERENCE COMMITTEE NEGOTIATIONS AND FLOOR VOTES

Date/Action	Issue/Bill	Time/Location
Week of September 20, 2004	Corporate Tax bill with energy-related tax incentives	Time: TBA
Conference Committee negotiations (Tentative)		

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